

## RA Update Report

### Regional Administrator Update Report

Reporting Period : 09/17/2021(Friday) - 10/08/2021(Friday)

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#### AIR PERMITS MONITORING GRANTS BRANCH

#### **Draft Response to Comments (RTC) Document for CAA Proposed PSD and Title V Permits and 112(g) MACT Determination - Phillips 66 Bluewater Texas**

**Terminal (BWTX) Deepwater Port (DWP):** Information: Proposed crude oil export DWP approximately 18 miles offshore of Port Aransas, Texas. The DWP consists of two Single Point Mooring (SPM) systems to load crude carriers for international markets. BWTX proposes loading 80,000 barrels per hour (2 SPM's combined) and 384,000,000 barrels per year. On February 20, 2020, EPA issued a letter finding the PSD permit and 112(g) applications complete and on June 24, 2020, the title V permit application complete. The Public Notice (PN) began the public comment period on November 12, 2020, for the draft PSD and title V permits, as well as EPA's Notice of MACT Approval (NOMA) for the 112(g) application; the PN included a Public Hearing to be held on January 5, 2021, if requested during public comment. Based upon requests received on the permits and the NOMA, a Virtual Public Hearing was held as planned on January 5 and January 6, 2021 and the public comment period was extended to January 11, 2021. ARPE is now working on reviewing and sorting comments and drafting the RTC document in support of a final permit decision. Due to staff workload,

## **Ex. 5 Deliberative Process (DP)**

Ex. 5 Deliberative Process (DP)

- Aimee Wilson (214-665-

7596)

## **Ex. 5 Deliberative Process (DP)**

# Ex. 5 Deliberative Process (DP)

**Annual Monitoring Network Plans 2021 - Oklahoma - SAFETEA Letter:** Signature by Director, Air and Radiation: Consistent with EPA's October 1, 2020, approval of Oklahoma's request under Section 10211 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (SAFETEA) to extend the administration of the State's EPA-approved environmental regulatory programs to certain areas of Indian country, the approval the Oklahoma Department of Environmental Quality (LDEQ) Annual Network Monitoring Plan will, if finalized as expected, apply to sources and activities in those areas of Indian country. A Tribal Consultation invitation for tribes located in Oklahoma is proposed to be signed by September 17, 2021 by the R6 Director of the Air and Radiation Division and sent to make the tribes aware of the approval of this action and consideration of SAFETEA in this action. Tribal Consultation will last for 30 days. - *Ellen Belk (214-665-2164)*

**2021 ADEE Virtual Technical System Audit:** Information: On September 23, 2021, EPA R6 completed its series of virtual meetings for the required technical system audit of the Arkansas Department of Energy and the Environment's (ADEE) ambient air monitoring network. EPA and ADEE held the fourth and final meeting to review the findings, concerns, observations and commendations for operation of ADEE's ambient air monitoring network. The next steps are for EPA to prepare a report of the findings, concerns, observations and commendations, and for ADEE to develop a corrective action schedule and plan. - *Susanne Apodaca (214-665-6556)*

**Public Comment Period Ongoing, Delegation of Authority to Oklahoma Department of Environmental Quality (ODEQ), Certain National Emission Standards for Hazardous Air Pollutants (NESHAP) Parts 61 and 63:** Information: A 30 day Public Comment is now underway as the Federal Register Notice (FRN) proposing a Delegation Update for the Oklahoma Department of Environmental Quality (ODEQ) of the National Emissions Standards for Hazardous Air Pollutants (NESHAP) Part 61 and Part 63 was published on August 30, 2021 (FRN signed by the ARD DD on August 18, 2021). ARPE & ORC developed the FRN as a proposal to update its delegation of the NESHAP standards, and includes new language regarding sources located in Indian Country based upon the McGirt Court Decision. Consistent with EPA's October 1, 2020, approval of Oklahoma's request under Section 10211 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act of 2005 (SAFETEA) to extend the administration of the State's EPA-approved environmental regulatory programs to certain areas of Indian country, the proposed NESHAP delegation update will, if finalized as proposed, apply to sources and activities in those areas of Indian

country. A Tribal Consultation invitation for tribes located in Oklahoma was signed and sent to make the tribes aware of the upcoming FRN for this action and consideration of SAFETEA in this action. Tribal Consultation will last until the end of the 30 day public comment, and may be extended if the public comment period is extended. The Public Comment ends on September 29, 2021. - **Richard Barrett (214-665-7227)**

**Rescheduled: Community Outreach on Ethylene Oxide Emissions near the Sasol Chemicals facility, in Westlake, LA:** Event - Community Outreach in Westlake, LA - Rescheduled. Due to recovery efforts for damage from Hurricane Ida in Louisiana, the virtual community outreach webinar to educate and inform residents of human health hazards associated with ethylene oxide emissions from the Sasol Chemicals facility has been rescheduled to September 30, 2021. The Agency will discuss the uses of ethylene oxide, the technical assessments of updated emissions, and the calculated health risk associated with those emissions. The presentation will be followed by a question and answer session for the attendees and a presentation by Sasol. - **Frances Verhalen (214-665-2172) (Cell-214-970-3083)**

**CAA Permit Applications Completeness Review - Blue Marlin Offshore Port (BMOP), Deepwater Port (DWP):** Information: Proposed crude oil export DWP approximately 82 statute miles off the coast of Cameron Parish, Louisiana. The project plans to repurpose an existing natural gas subsea pipeline and offshore platform to transport crude oil to two Single Point Mooring (SPM) buoys for loading up to 365 crude oil Very Large Crude Carriers (VLCCs), or other crude oil carriers, per year. BMOP proposes loading 80,000 barrels per hour (2 SPMs combined). On October 28, 2020, EPA has found the PSD application incomplete (Oct 28, 2020), the NOMA application incomplete (Nov 9, 2020) and the Title V application incomplete (Nov 19, 2020). BMOP submitted a partial and consolidated response to the EPA's incompleteness letters on January 29, 2021, but also referenced additional supplements that were still undergoing development to respond to EPA comments. ARPE notified BMOP that we will suspend our completeness review and then re-initiate our completeness reviews of the BMOP applications when we receive the additional materials that BMOP indicated could not be completed at that time. BMOP submitted the supplemental information for this project and EPA acknowledged receipt on September 7, 2021, by e-mail. We have 30 days to now restart our review and issue a letter regarding completeness of the PSD permit application. - **Ashley Mohr (214-665-7289)**

**Proposed Approval of Revisions to the Oklahoma SIP, Update of General Provisions and Incorporation by Reference Provisions:** Information: Proposed approval of revisions to the Oklahoma State Implementation Plan (SIP) submitted on

May 15, 2020 and February 9, 2021 to update general provisions definitions and incorporation by reference provisions. EPA is proposing approval because these revisions are consistent with federal requirements and ensure the Oklahoma SIP incorporates current federal requirements. Target RA Signature Date - October 15, 2021. - *Adina Wiley (214-665-2115)*

**Delegation of Authority to Arkansas Department of Environmental Quality (ADEQ), Certain National Emission Standards for Hazardous Air Pollutants (NESHAP) Part 63:** Information: ADEQ submitted a September 28, 2020, letter to EPA Region 6, formally requesting to approve its updated delegation of Part 63 NESHAP standards adopted by the ADEQ between September 17, 2014, and July 31, 2020. ARPE has developed a draft Federal Register Notice as a direct final approval of the request, but has reworked this into a proposal due to concerns that any comment received would result in rework and wasted resources - ARPE is aware of environmental groups that may have an interest in this action. The reworked package is being reviewed by ORC prior to formal routing - anticipated to start in early October and be completed prior to the end of October. - *Richard Barrett (214-665-7227)*

**CAA PSD/TV Permit and Case-by-Case MACT Determination - Sentinel Midstream Texas GulfLink (TXGL) Deepwater Port (DWP):** Information: Proposed crude oil export DWP approximately 28 miles offshore of Freeport, Texas. The DWP consists of one to two platforms and two Single Point Mooring (SPM) systems to load crude carriers for international markets. TGL proposes loading 85,000 barrels per hour (2 SPMs combined) and 365,000,000 barrels per year. Vapor capture and control are not proposed by the applicant for the permit project, but instead a Section 112(g) application (case-by-case MACT) was submitted. **Ex. 5 Deliberative Process (DP)**

## **Ex. 5 Deliberative Process (DP)**

September 27, 2021). The activity date has been adjusted to complete draft documents and coordinate with legal and technical reviewers, and also to brief senior leadership prior to PN; other high priority work for the division has and may also impact the target date. - *Brad Toups (214-665-7258)*

## **Ex. 5 Deliberative Process (DP)**

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**Response to Public Comments on CAA PSD/TV Final Permits - Enterprise Products (SPOT) Deepwater Port (DWP):** Information: Proposed crude oil export DWP located 35 miles off the coast of Brazoria County, Texas. Design includes a platform with 95% vapor emission control from the submerged fill marine loading operation. Applications were found complete and ARPE proposed the CAA PSD pre-construction and Title V operating permits for Public notice on November 20, 2019, with Public Comment lasting 30 days through December 20, 2019. A response to the

## Ex. 5 Deliberative Process (DP)

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- Brad

*Toups (214-665-7258)*

#### DIVISION FRONT OFFICE

**National Energy Advisory Team:** On September 27, Region 6 will be hosting the National Energy Advisory Team biweekly meeting which provides an opportunity for EPA Headquarters and Regional team members to share insights and discuss projects and related energy topics. The meeting will include an update on the STRONGER MOU development, the IOGCC annual conference and the IOGCC-EPA Taskforce meeting as well as member led topics. OAQPS will provide an update on regulation development regarding methane controls in the O&G sector. EPA Region 6 will continue to issue a bi-weekly energy brief to update leadership and team members on the status of the oil and gas sector, renewables, the electric grid and other energy related areas of interest. - *Taimur Shaikh (214-665-7181) (Cell-469-597-0775)*

#### STATE PLANNING IMPLEMENTATION BRANCH

**Final Action - Louisiana Regional Haze Progress Report SIP :** RA Signature by September 17, 2021, for the final approval action on the Louisiana Regional Haze Progress Report SIP. The SIP was submitted by LDEQ on March 25, 2021, to address the requirements of a periodic report that assesses visibility improvement toward regional haze reasonable progress goals and includes and a determination of adequacy of the State's Regional Haze SIP for the first implementation period. On July 21, 2021, EPA proposed to approve LDEQ's regional haze progress report for the first implementation period. We received no comments on the proposed action. - *James Grady (214-665-6745)*

**Revised Air Quality Designations for the 2015 Ozone NAAQS:** Information - In response to a July 2020, D.C. Circuit Court remand, EPA is taking final action on its review of the Agency's original designation for 2 counties for the 2015 National Ambient Air Quality Standards for ozone. EPA is taking final action to revise the boundaries for two nonattainment areas in three states (Colorado, New Mexico, and Texas). Upon further review, EPA is expanding the Doña Ana County, NM nonattainment area to include El Paso County, Texas, and is expanding the Metro/North Front Range, Colorado nonattainment area to include all of Weld County, CO. The target date for the Administrator's signature is September 24, 2021. - *Carrie Paige (214-665-6521)*

**Air Plan Approval; New Mexico; Clean Air Act Requirements for Emissions Inventory and Emissions Statement for Nonattainment Area for the 2015 Ozone National Ambient Air Quality Standards :** October 6, RA Signature - EPA is proposing a rule to approve revisions to the New Mexico State Implementation Plan (SIP) submitted by the State to meet the Emissions Inventory (EI) and Emissions Statement requirements of the CAA, for the Sunland Park ozone nonattainment area for the 2015 8-hour ozone NAAQS. - *Guy Donaldson (214-665-7242) (Cell-469-416-8790)*

**Comment Letter - TCEQ's proposed Rusk-Panola Attainment Demonstration SIP Revision for the 2010 SO<sub>2</sub> NAAQS and Associated Agreed Order:** On Oct. 13, 2021. EPA intends to file comments on Texas proposed SO<sub>2</sub> attainment SIP for the nonattainment area in the vicinity of the Martin Lake power plant. The SIP addresses the requirements of Clean Air Act Subtitle D's nonattainment area planning requirements. EPA has noted and discussed with TCEQ several concerns with the proposed SIP. The SIP relies on air modeling using an alternative model approach. The TCEQ submitted their request for an alternate model on May 24, 2021. EPA has

## **Ex. 5 Deliberative Process (DP)**

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Region 6 is coordinating with OAQPS and OGC on those comments. - *Michael Feldman (214-665-9793) (Cell-214-970-3082)*

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AIR ENFORCEMENT BRANCH

## Ex. 5 DP / Ex. 7(A)

**Louisiana Industrial Flyovers:** On August 24, EPA Region 6 began helicopter flyovers equipped with infrared cameras of industrial facilities across the state of Louisiana. In coordination with the Louisiana Department of Environmental Quality (LDEQ), EPA Region 6 identified specific facilities throughout the state that are significant sources of volatile organic compounds and hazardous air pollutants (HAPs) that will be surveyed during this project. The goal of the industrial flyovers is to evaluate these facilities to determine the presence of significant unauthorized or underreported emissions of volatile organic compounds and HAPs. The excess emissions targeted through this project have the potential to impact air quality in nearby environmental justice communities. During the week of 9/6, the flyovers were conducted in the northern and middle areas of the state. The flyovers so far have

surveyed 92 facilities, 1879 tanks, 143 flares, and 13 other sources.

**Ex. 5 DP / Ex. 7(A)**

### **Ex. 5 DP / Ex. 7(A)**

Hurricane Ida, the flyovers were temporarily demobilized on Friday, August 27. On September 20, the flyovers were remobilized to complete areas in the southeastern part of Louisiana. The flyovers will be completed by the end of September. - *Jack Telleck (214-665-9732)*

#### **2020 Clean Air Act Permian Basin Flyover Settlements and Notice of Violations:**

During the week of September 20, EPA Region 6 continued concluding administrative settlements addressing unauthorized emissions identified during the 2020 flyover of the Texas Permian Basin. As of September 7, four Consent Agreement and Final Orders (CAFOs) have been filed and one Administrative Order on Consent (AOC) has been issued. We also continued issuing Notice of Violations/Opportunity to Confer letters to the 41 oil and gas companies that were sent notification letters in December. Eleven companies have received an NOVOC so far and two received 114 information request letters. EPA Region 6 also continued reviewing responses to the 44 notification letters sent in February to companies that had sites with observed emissions in the Permian and San Juan Basins in New Mexico. The letters asked companies to review flyover videos of their facilities, confirm ownership, and provide permit information. The aerial survey of the Permian Basin in west Texas, the Anadarko Basin in central Oklahoma, the San Juan Basin in northwest New Mexico, and the Permian Basin in southeast New Mexico was carried out from August 25 to October 15, 2020. EPA has coordinated with the Texas Commission on Environmental Quality (TCEQ), New Mexico Environmental Department (NMED), and Oklahoma Department of Environmental Quality (ODEQ) regarding the initial findings from the flyover. The goal of the flyovers is to identify emission sources (i.e. unlit flares and tanks) and quickly return facilities to compliance. - *Jamie Salabogi (214-665-7533)*

**Settlement Discussions with Oil and Gas Facilities with Observed Emissions in the Permian Basin - 2019 Flyover:** During the week of September 20, EPA Region 6 continued communicating with the last of the 11 companies that received Notice of Violation/Opportunity to Confer letters in December for unauthorized emissions in New Mexico observed during infrared flyovers of the Permian Basin in September and October of 2019. The New Mexico Environment Department (NMED) asked EPA to take the lead on these cases in August 2020, and Region 6 has been coordinating with the state on our efforts. Nine companies have signed an Administrative Order on Consent and one company has signed a Consent Agreement and Final Order. In Texas, 17 companies signed Administrative Orders on Consent and one company signed a Consent Agreement and Final Order with EPA. Region 6 coordinated with the Texas



Commission on Environmental Quality (TCEQ) on Texas facilities. - *Jamie Salabogi (214-665-7533)*

**EPA continues SPod Monitoring around the Denka facility:** EPA continues to monitor the ambient air around Denka's neoprene manufacturing facility through OECA's Continuous Air Monitoring Program (SPod) and publishes the chloroprene data on its public website. After monitoring impacts from Hurricane Ida, all SPod are operations at the six monitoring locations. On September 14, 2021 there was a dynamically triggered Canister at Chad Baker, on September 17, 2021 there were two dynamically triggered canisters at the Levee and Acorn and Hwy 44, and on September 19, 2021 there were two dynamically triggered canisters at the East St. John the Baptist High School and Chad Baker. EPA extended the Operational Phase of the SPod Monitoring to collect monitoring data during the facility turnaround and will continue monitoring at least through September 2021. - *James Leathers (214-665-6569)*

**Ex. 5 DP / Ex. 7(A)**

The press release includes quotes from the RA, AAG Kim (DOJ), and Dr. Brown (LDEQ). - *Justin Chen (214-665-2273)*

WASTE ENFORCEMENT BRANCH

**Ex. 5 DP / Ex. 7(A)**

**Mosaic Fertilizer, Uncle Sam Plant, Convent, LA:** The facility is still without power and may be for another month. They are running on diesel generators and LDEQ seemed confident that they will be able to continue to procure diesel fuel. The facility has continued to build up their dikes using gypsum from Stack 4, and currently have over 6 feet of freeboard which should be enough to handle routine rainfall until they regain power unless another major storm comes through. **Ex. 5 DP / Ex. 7(A)**

**Ex. 5 DP / Ex. 7(A)**

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*Margaret Osbourne (214-665-6508) (Cell-972-322-*

**LAS**

**LCR**

**RCRA BROWNFIELDS AND SOLID WASTE BRANCH**

**Cannon AFB Hosts Quarterly Virtual Public Meeting:** Information: (Updated) On September 15, 2021, the Air Force hosted a Zoom quarterly virtual public meeting information session regarding Cannon AFB to update residents about ongoing PFAS remedial activities. The Air Force discussed their Pilot Study program for which aquifer testing is currently ongoing. EPA and NMED will have the opportunity to review the EE/CA Design workplan which is expected in January 2022. There were approximately 44 attendees including NMED representatives. The AF did state that they had decided not to establish a Restoration Advisory Board (RAB) at this time. The Region 6 ATSDR representative participated in the call to make their website available and to answer any health questions raised. The next quarterly meeting will be December 15, 2021. - *Gregory Lyssy (214-665-8317)*

**UPRR Former Houston Wood Preserving Works Site/Kashmere Gardens Area:** Information: On September 21, 2021, EPA R6 participated in a briefing for EPA Deputy Administrator Janet McCabe regarding the UPRR facility and nearby Kashmere Gardens neighborhood. The purpose of the briefing was to provide an overview of the site history, current conditions, health studies, and EPA's proposed comments on the draft UPRR permit. TCEQ is currently accepting comments on the draft permit. The public comment period has been extended until a second public meeting is held, the date of which is still to be determined due to Covid-19 concerns. EPA is working with the City of Houston and the community to schedule one or two small roundtable technical meetings during which EPA's contractor, Skeo, would give an abbreviated version of their technical presentation that they gave previously. - *Melissa Smith (214-665-7357) (Cell-214-608-1892)*

**Draft No Migration Variance Guidance for Staging Piles:** Information: On September 24, 2021, EPA Region 6 LCRD staff and managers participated in a briefing for the HQ OLEM IO along with ORCR and OGC staff on the draft No Migration Variance Guidance for Staging Piles. The purpose of the briefing was to provide the

history of why the guidance is needed, an overview of the guidance, and discussion regarding various Regions' perspectives on the guidance. The intent is to provide guidance to facilities that use put piles to stage treated material until analytical results demonstrate the waste meets treatment standards prior to final placement in a landfill. Without a No-Migration Variance, this practice is not in compliance with RCRA Land Disposal Restriction Requirements. In Region 6, Clean Harbors Lone Mountain in Waynoka, Oklahoma, is interested in submitting such a request. - *Melissa Smith (214-665-7357)* Ex. 6 Personal Privacy (PP)

**Chevron Gulf of Mexico Storage Extension:** Information: On September 21, 2021, the EPA Region 6 acting Regional Administrator approved a 30-day extension for Chevron Gulf of Mexico to store 5 containers of hazardous waste on their Big Foot and Genesis offshore platforms in the Gulf. They requested the extension because they have not been able to ship the waste due to disposal company delays caused by Hurricane Ida. These two off-shore platforms are located in federal waters which means that EPA Region 6 has direct implementation authority for the RCRA regulations for these platforms. - *Melissa Smith (214-665-7357)* Ex. 6 Personal Privacy (PP)

#### UST POLLUTION PREVENTION PESTICIDE AND LEAD BRANCH

**POLLUTION PREVENTION WEEK - SEPTEMBER 20 - 24, 2021:** Information - Pollution Prevention staff is participating in Pollution Prevention (P2) week by hosting a Lean Manufacturing in Pollution Prevention webinar on September 22, 2021, conducting a social media campaign, and other activities. This is the 25th year in a row that EPA will mark P2 Week by highlighting practices that reduce or prevent pollution from being released into the environment prior to recycling, treatment or disposal. The P2 Act, passed in 1990, was the first law of its kind to prevent pollution before it's even created by focusing industry, government and public attention on reducing the amount of pollution through cost-effective changes in production, operation, and raw materials use. - *Annette Smith (214-665-2127)*

#### **MSD**

#### **ORA**

#### OFFICE OF COMMUNITES TRIBES ENVIRONMENTAL ASSMT

**Opportunity to consult the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA) with Choctaw Nation:** On September 21, staff from the

Office of Communities, Tribes and Environmental Assessment (OCTEA) coordinated with Water Division (WD) and Office of Regional Counsel (ORC) a consultation about how the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA) may affect wastewater treatment and permitting activities on tribal land. Choctaw Nation representatives inquired about permitting a new facility in trust land with potential to discharge approximately 100,000 gallons per day. WD staff explained the permitting process, normal timelines and factors that affect delays/expediting the process (e.g., coordination with other agencies, like U.S. Fish and Wildlife Service, addressing concerns about Total Maximum Daily Loads or TMDLs, endangered species, historic properties, outfall location, distance to water stream), and responded to questions and concerns about SAFETEA to permit requirements for wastewater treatment and permitting in Choctaw Nation. WD staff stated that normal permit writing takes approximately 180 days - WD-Quang Nguyen (214-665-7238), OCTEA Salina Gomez (214-665-6650), & ORC Tina Alvarado (214-665-2709) - **Curtis Hicks (580-436-8561)**

**EPA shares Denka Monitoring Protocol with Environmental Justice (EJ)**

**Stakeholders:** Staff from the Office of Communities, Tribes and Environmental Assessment (OCTEA) shared Denka's proposed fence line monitoring protocol and EPA's approval with the Concerned Citizens of St John and other stakeholders who are part of the environmental justice (EJ) stakeholders in Louisiana that raised concerns about fence line monitoring activities. OCTEA staff shared that EPA approved Denka's proposed protocol to monitor chloroprene and 1,3-butadiene at the Denka facility fence line. The approval requires Denka to begin monitoring, using EPA approved methods by October 14, 2021, and continue until December 2024, unless EPA agrees in writing that Denka may cease monitoring and reporting earlier. EPA will make the data available to the public, in a timely manner, after completing a quality assurance review. - Gloria Vaughn, 214-665-7535, 214-789-2162 - **Gerardo Acosta (214-665-**

**8042)** Ex. 6 Personal Privacy (PP)

**Environmental Justice calls with Regional Stakeholders about Hurricane Ida:** Staff from the Office of Communities, Tribes and Environmental Assessment (OCTEA) is working diligently to complete daily updates to the Regional Incident Command Team (RICT). Staff also hosted the EJ stakeholders call on September 21 at 10 am. During the call, staff provided updates about EPA activities, welcomed feedback and responded to questions from the stakeholders. OCTEA staff also thanked the EJ stakeholders for their assistance in our RICT response activities. The region will discontinue hosting these calls due to the winding down of the mission assignment. Stakeholders were advised to contact OCTEA if they have concerns or information that they would like to share. - **Gloria Vaughn (214-665-7535)** Ex. 6 Personal Privacy (PP)

**Response to Consultation on the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA) with Oklahoma Tribal Nations:** On September 23, EPA (Region 6 and OITA) will hold an individual consultation conference call with the Pawnee Nation in Oklahoma about the impacts of the Safe, Accountable, Flexible, Efficient Transportation Equity Act (SAFETEA). As part of SAFETEA, the state requested to administer its environmental regulatory programs within certain areas of Indian country, excluding tribal trust lands, allotments and treaty fee lands. The scheduled consultation period ends on October 13, and EPA has extended the due date to receive comments from Tribes until the end of October. EPA held consultations with the following Tribal Nations that requested individual consultation: Ottawa Tribe of Oklahoma and Wichita and Affiliated Tribes, on September 13 and 17, respectively. All consultations will be entered in the Tribal Consultation Opportunities Tracking System (TCOTS) public database. - *Salina Gomez (214-665-6650)*

**ORC**

**RCRA/TOXIC ENFORCEMENT BRANCH**

**Allied BioScience Status Update:** On Wednesday September 8, 2021, Allied BioScience submitted the request to move the product SurfaceWise 2 (SW2) from UPS back to Allied BioScience. On Friday September 17, 2021, EPA issued a letter to UPS granting Allied BioScience's request to move the product SW2 back to the company's custody. On Friday September 17, 2021, EPA conducted a meeting with Allied BioScience providing an overview of the company's issues with compliance regarding foreign purchaser acknowledgment statements and the product's label for previous exports of SW2. During this meeting, Allied BioScience also requested EPA provide the company with a ballpark penalty figure based on the draft penalty civil penalty the case team calculated. Later Friday afternoon the case team did provide Allied BioScience with a ballpark civil penalty amount, but did clarify that since EPA was still awaiting financial documentation from Allied BioScience the amount provided was not a final civil penalty calculation.

**Ex. 5 AC / Ex. 7(A)**

**Ex. 5 AC / Ex. 7(A)**

**Ex. 5 AC / Ex. 7(A)**

Under the SSURO, Allied Bioscience must immediately cease the sale, use, or removal of the Product under its ownership, control, or custody, wherever such Product is located, except in accordance with the provisions of the Order unless they receive written approval from EPA for specific circumstances. On August 3, 2021, Allied BioScience made a request to move the

product SurfaceWise 2, to the Naval Surface Warfare Center - Port Hueneme Division in California, for operational testing and evaluation aboard a Navy ship to fulfill its contractual obligation with the Defense Innovation Unit, a US Department of Defense organization. On Friday August 13, 2021 EPA Region 6 denied movement of the product SurfaceWise 2 to the Naval Surface Warfare Center - Port Hueneme Division. On August 9, 2021, Allied BioScience made a request to move the product SurfaceWise 2, as American Airlines has requested to return the product back to Allied BioScience. On Wednesday September 1, 2021, provided guidance to Allied BioScience regarding American Airlines' request to return the product back to Allied BioScience. - *Lawrence Pittman (214-665-8381)*

## Ex. 5 AC / Ex. 7(A)

### WATER ENFORCEMENT BRANCH

**Churchill Downs - New Orleans, Louisiana:** The Churchill Downs CD was lodged on September 29, 2020. The Sewerage and Water Board submitted comments during the public comment period. The CD required Churchill to construct horse wash stations and the Board claimed that this discharge from the horse wash stations would exceed the Board's capacity in the sewer lines. We engaged with the Board and Churchill to address their concerns, and the Board withdrew its comments on June 30, 2021. It is

expected that the Motion to Enter will be filed by September 30, 2021. - *Ellen Chang-Vaughan (214-665-7328)*

## **SED**

### **ASSESSMENT ENFORCEMENT BRANCH**

**Lane Plating Superfund Site, Dallas, TX - Virtual CAG Meeting:** Information: On September 16, EPA held a virtual meeting with the Lane Plating Community Advisory Group (CAG) and the Dallas Sierra Club. The CAG and the Sierra Club had questions concerning the detections of arsenic in soil collected from residential yards northeast of the Site. In addition, the CAG and the Sierra Club had questions about the human health effects of arsenic, and possible risk reduction techniques for residents with arsenic above screening levels. The CAG requested written responses to questions generated by the Technical Assistance Services for Communities (TASC) report on residential soil arsenic. EPA provided responses describing possible alternate sources of arsenic, arsenic persistence in soil, and exposure routes of arsenic. A public meeting will be planned with the assistance of the CAG later this year to present and discuss results with the community. - *Chelsea Hidalgo (214-665-8133)*

**San Mateo Creek Basin Legacy Uranium Mines - Agreement:** Information: On September 22, the SED Director will sign the Administrative Settlement Agreement and Order on Consent (ASAOC) for a Removal Site Evaluation (RSE) at the San Mateo Creek Basin Site. On August 25, Homestake Mining Company signed the ASAOC. The RSE cost is estimated to be \$750,000. - *Stephen Capuyan (214-665-2163)*

### **EMERGENCY MANAGEMENT BRANCH**

**American Creosote - DeRidder Superfund Site, DeRidder, LA - Removal Action:** Information: Removal activities, consisting of the transportation and disposal of waste, continues at the American Creosote-DeRidder site. Due to the clean-up (ERRS) contract being extended, the period of performance for the ERRS Task Order was extended to October 23. - *Matthew Loesel (214-665-8544)*

Ex. 6 Personal Privacy (PP)

**Gretna Plating and Polishing Site, Gretna, LA - Removal Action:** Information: On September 15, EPA received a notification from the New Orleans Regional Planning Commission (NORPC) that the Gretna Plating and Polishing site located in a residential area in Gretna had been severely compromised by Hurricane Ida. The City of Gretna



requested EPA conduct an emergency removal to address the hazardous substances inside the former plating facility as well as an emergency demolition of the building due to its structural integrity. On September 19, EPA mobilized and began work to secure access to the facility. At EPA's request, the City of Gretna provided a structural engineer to assess the structural integrity of the building. The engineer confirmed the building was structurally stable. EPA's contractors conducted air monitoring to confirm no hazards were present during operations and completed securing the property. By October 8, EPA will return to the site to bulk waste materials and arrange for off-site disposal. - **Philip Rouse (214-665-3187)** Ex. 6 Personal Privacy (PP)

**Wildcat Oil Spill, Stephens County, OK - OPA Action:** Information: On September 22, EPA will return to the Wildcat Creek Oil Spill site to conduct the final inspection of the oil spill in Stephens County, OK. The Wildcat Creek Oil Spill was approximately 800 barrels, which resulted from a ruptured flowline containing sweet crude oil and produced water. The spill impacted a nearby creek, which is a tributary of Wildcat Creek and flowed into the Salt Creek near Foster, OK. The Responsible Party (RP) mobilized contractors to the site to begin cleanup operation immediately. The RP has requested the final inspection of the tributary and creeks. - **Randy Guidry (214-665-2277)** Ex. 6 Personal Privacy (PP)

**Lake Oologah-Winganon Area, Rogers County, OK - OPA Action:** Information: Beginning the week of September 27, EPA plans to begin well plugging operations at Lake Oologah. Three previously identified wells remain to be plugged and abandoned (P&A) at this site. The property owner for two of the wells has signed an access agreement. The property owner for the third well declined access but EPA will continue to seek access. In addition, the Oklahoma Corporation Commission (OCC) has identified two additional wells for evaluation and potential plugging. Notice of Federal Interest letters (NOFIs) have been sent to the addresses of past operators of these two wells. Ex. 5 DP / Ex. 7(A)

two newly referred wells. If the wells are found to be discharging oil that poses a threat to waters of the US, they will be plugged. Ex. 5 DP / Ex. 7(A)  
The Cherokee Nation plans to send a representative to observe these well plugging operations. - **David Robertson (214-665-7363)** Ex. 6 Personal Privacy (PP)

**Texas Vermiculite Site, Dallas, TX - Removal Action:** Information: By September 30, the SED Director is expected to sign the Administrative Order on Consent (AOC), which covers both the assessment and removal, for Texas Vermiculite site. EPA is anticipating that the Responsible Party, W.R. Grace, will be signing the AOC imminently. Grace will begin seeking access agreements from property owners within the areas of investigation for the purpose of sampling to determine if asbestos is present

in the soil. EPA anticipates mailing out fact sheets about the removal activities as early as October 1. - *Mike McAteer (214-665-7157)*

Ex. 6 Personal Privacy (PP)

**Vermiculite Products Site, Houston, TX - Removal Action:** Information: Removal activities continue at the Vermiculite Products site. Asbestos-contaminated soil excavation and offsite disposal continues with approximately 3400 tons being removed to date. Total tonnage of contaminated soil across the site is estimated at 28,000 tons. EPA expects to finish Phase 1, the first 9 soil grids, by October 1. An additional 18 grids will remain to be excavated as well as abatement of asbestos-contaminated dust in two onsite buildings. The estimated date of completion of the removal action is December 31, 2021. - *Mike McAteer (214-665-7157)*

Ex. 6 Personal Privacy (PP)

**Los Lunas Chemical Cache Site, Los Lunas, NM - Removal Action:** Information: By September 30, the disposal of five containers of Radium-226 waste from the Los Lunas site is expected to be completed. - *Jhana Enders (214-665-6654) (Cell-214-*

Ex. 6 Personal Privacy (PP)

#### REMEDIAL BRANCH

**Circle Court Ground Water Plume Superfund Site, Willow Park, TX - Proposed Plan:** Information: On September 20, EPA will issue a proposed plan for Circle Court Ground Water Plume site for an interim remedy of soil vapor extraction in the source area to address residual trichloroethene (TCE) contamination in the vadose zone. Soil vapor extraction is a presumptive remedy for TCE and other volatile organic contaminants in unsaturated zone soils. - *Vincent Malott (214-665-8313)*

**Chevron Questa Mine Superfund Site, Questa, NM – Virtual Meeting with Local Officials:** Information: On September 22, EPA, in coordination with NMED, NM Energy, Minerals, and Natural Resources Department, and Chevron Mining, Inc., met virtually with local officials from the Village of Questa and Taos County. The meeting provided an update to local officials on Site cleanup work status. - *Laura Stankosky (214-665-7525)*

Ex. 6 Personal Privacy (PP)

**Odessa Chromium # I Superfund Site, Ector County, TX - Five Year Review:** Information: During the week of September 20, the SED Director approved the Five-

Year Review and protectiveness determination for the Odessa Chromium # I Superfund Site. - ***Stephen Pereira (214-665-3137)***

**Old Midland Products Superfund Site, Ola, AR - Five Year Review:** Information: During the week of September 20, the SED Director approved the Five-Year Review and protectiveness determination for the Old Midland Products Superfund Site. - ***Stephen Pereira (214-665-3137)***

**Circle Court Ground Water Plume Superfund Site, Willow Park, TX - Virtual Public Meeting:** Information: On September 28, EPA will hold a virtual public meeting to present the proposed remedy and receive comments and answer questions during the public comment period for the Circle Court proposed plan. During the virtual meeting, EPA will present the proposed interim remedy of soil vapor extraction in the source area to address residual trichloroethene (TCE) contamination in the vadose zone. Soil vapor extraction is a presumptive remedy for TCE and other volatile organic contaminants in unsaturated zone soils. - ***Vincent Malott (214-665-8313)***

#### **RESOURCES MANAGEMENT BRANCH**

**ERRS IV and V Contract - Status:** Information: The contract expiration date for the ERRS IV Contract has been extended by the CO to November 6 to allow for contract and Task Order transfer from the ERRS IV contract to the new ERRS V contract. Additional delays in ERRS V contract award have resulted in a projected award milestone date of October 7. - ***Henry Thompson (214-665-2251)***

#### **WD**

#### **PERMITTING AND WATER QUALITY BRANCH**

**TPDES Permit Review TX0109011 - Dos Republicas Coal Partnership:** On September 2 2021, the TCEQ submitted via email, additional information to the EPA in response to the EPA's "Interim" Objection letter (request for more information) dated August 16, 2021 regarding its review of the draft permit TX0109011 for the Dos Republicas Coal Partnership. Based on its review, the EPA concluded, that more information is needed to determine compliance with the Clean Water Act, more specifically, the requirement as it relates to the operator of the facility. This issue has been raised in the Texas Court of Appeals and is pending final decision from the

Texas Supreme Court. The EPA and the TCEQ will schedule a conference call to further discuss a formal/official response via letter and resolution for the pending permitting issue. Upon submittal of the TCEQ's formal response, the EPA will recommence the permit review process. The applicant, Dos Republicas Coal Partnership, owns the Eagle Pass Mine located in the City of Eagle Pass, Texas. -

**Kilty Baskin (214-665-7500)**

**Arkansas Postpones Consideration of Triennial WQS Revisions (Coffee Creek, Mossy Lake):** The Arkansas Pollution Control & Ecology Commission (Commission) removed consideration of the ADEQ's proposed water quality standards (WQS) revisions from its August 2021 hearing. The ADEQ has since informed Region 6 that the ADEQ is not moving forward with proposing revisions to Rule 2 in September but may do so at the Commission's October hearing. ADEQ has not indicated whether it intends to propose appropriate designated uses for Coffee Creek and Mossy Lake, per EPA's previous comments. Following the ADEQ's decision not to propose designated uses for these waters (discussed in ADEQ's response to EPA pursuant to the Informal Resolution Agreement resolving EPA Complaint No. 27-16-R6 under Title VI of the Civil Rights Act of 1964), Region 6 informed the Commission that failure to adopt appropriate designated uses for Coffee Creek from its headwaters through Mossy Lake to its confluence with the Ouachita River could cause EPA to consider making a formal determination under section 303(c)(4)(B) of the Clean Water Act (CWA) that new water quality standards are needed to meet CWA requirements. - **Russell Nelson (214-665-6646)**

**NACA - ADEQ NPDES Permit:** The 2017 APDES Permit issued to NACA which is currently administratively continued, included effluent limitation for total phosphorus (TP) of 0.1 mg/l. The limit was primarily based on EPA's "Gold Book"

## Ex. 5 Deliberative Process (DP)

### Ex. 5 Deliberative Process (DP)

In September 2021 Region 6 EPA provided options to issue a variance or interim objection where, for the latter, DEQ could seek the advice of EPA HQ in determining the appropriate total phosphorus concentration limit for the NACA facility. EPA briefings are planned with the WDD and RA on September 23rd and September 27th respectively. - **Mark Hayes (214-665-2705)**

**Los Alamos County Challenge to Residual Designation in the 10 Circuit Court of Appeals:** As a result of a petition by Amigos Bravos, on December 16, 2019, Los Alamos County, Los Alamos National Laboratory, and New Mexico Department of Transportation were designated as needing Municipal Separate Storm Sewer System (MS4) permits for MS4 discharges on LANL property and the Los Alamos Urban Cluster. Los Alamos County challenged this designation in the 10th Circuit Court of Appeals. The due date for EPA's Administrative Index in the 10th Circuit appeal of the Los Alamos designation decision was extended to September 23, 2021. EPA's petition for dismissal on jurisdictional grounds, asserting that the case belongs in the District Court, is still pending. - ***Brent Larsen (214-665-7523)***